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July 9, 2004

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A-325
Washington, DC 20554

Re: ***BellSouth 272 Audit, EB Docket No. 03-197; Qwest 272 Audit; EB Docket No. 03-198; SBC 272 Audit, EB Docket No. 03-199; Verizon 272 Audit, EB Docket No. 03-200; Accounting Safeguards Order, CC Docket No. 96-150; Non-Accounting Safeguards Order, CC Docket No. 96-149; Special Access Proceeding, CC Docket No. 01-321; Non-Dominance FNPRM, WC Docket No. 02-112***

Dear Ms. Dortch:

This letter is in response to AT&T's correspondence, dated June 7, 2004, which addressed the *ex parte* presentations made by BellSouth, Verizon and Qwest in this matter. AT&T begins its letter by claiming that the proposals of BellSouth, Verizon and Qwest would cause "further dilution of the already weak performance metrics for special and switched access services." (AT&T Letter, p. 1). This allegation is couched in terms that imply that there are already measurements in place, which have been approved by the Commission, and that BellSouth and others advocate a reduction of these approved measurements. This is, of course, not the case. Instead, there are, at this juncture, only a variety of proposals before the Commission from AT&T, the RBOCs and others, none of which have been adopted.

Although AT&T's opening salvo is misleading, AT&T's approach to these proposals is clear: it consistently argues for more measurements, and for a more costly and burdensome plan. In contrast, BellSouth takes the more moderate view that the appropriate measurement plan is one that balances the need for measures sufficient to ensure parity performance with the need for measurements that can be efficiently administered, that do not include unnecessary data, and that do not overly burden either the ILECs or the Commission. Unfortunately, AT&T, consistent with its overall approach, mischaracterizes every effort to develop a streamlined set of performance metrics as an attempt to weaken the measurements proposed by the coalition to which it belongs. AT&T's allegations to this effect, however, are simply not supported by the facts.

BellSouth's proposal is consistent with the approach endorsed in its 272 Audit by the Joint Federal/State Oversight Team ("JOT"). That is, the JOT identified and included in the Audit General Standard Procedures the metrics they believed were appropriate to assess 272 compliance.[1] BellSouth now proposes metrics for access services that are almost identical in scope to those used in the Audit. The only difference is that BellSouth does not propose the continued use of an average installation interval measurement, which was used in the Audit for diagnostic purposes only. Thus, the measures used in the Audit to judge whether BellSouth is providing service to its competitors at parity with the service it provides to itself and its affiliates are the same in scope as the measures in BellSouth's proposal.[2]

Nevertheless, AT&T makes the baseless claim that BellSouth's proposal "if adopted, would so eviscerate the Commission's ability to monitor BOC compliance with Section 272(e)(1) as to render that section . . . a nullity." (Letter, p. 2). The fact that an almost identical set of measures has been used by the JOT to monitor BellSouth's performance and to <u>ensure</u> BellSouth's 272 compliance belies AT&T's claim. Finally, the JOT also used a measurement set that applied to both switched and special access. In contrast, the JCIG proposal supported by AT&T does not address switched access service.

BellSouth's response to each of AT&T's specific contentions is as follows:

1. <u>AT&T's Contention</u>: "The BOC Proposed Metrics Do Not Collect Data Necessary To Perform Statistical Analyses." (AT&T Letter, p. 3).

<u>BellSouth's Response</u>: The actual performance results are the key element of the performance metrics, and the volume data associated with each metric are used to make the necessary comparisons. BellSouth does not propose, however, to publish the volume data because doing so would provide no useful information to the Commission, but would provide BellSouth's competitors with valuable information[3] that could be utilized for the competitive analysis of BellSouth's Special Access business.

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1 *See* BellSouth Telecommunications, Inc. Section 272 Biennial Agreed-Upon Procedures Engagement, Pursuant to Section 272(d)(2) of The Telecommunications Act of 1996, PricewaterhouseCoopers LLP, Nov. 10, 2003 ("Audit" or "Audit Report").

2 BellSouth has, however, made certain slight modifications in the way the metrics are applied, *e.g.*, by changing certain of the business rules.

3 This competitively sensitive information would include, for example, the number of PIC changes made by BellSouth Long Distance and the type of services ordered by its customers. Also, displaying volume data would allow a competitor to monitor the in-service base and growth trends of Special Access within a state and, from that, infer BellSouth's marketing, promotional or pricing activities in each state. The competitor could then develop marketing tactics in response.

AT&T contends that it used these data in its analysis of the Audit "to demonstrate the statistical significance of the reported data showing BOC discrimination in favor of its affiliate." (Letter, p. 3). AT&T neglects, however, to mention that, although it did allege discrimination in the context of the Audit, the Auditor's Report included no finding of such discrimination, and the NAL issued by the Enforcement Bureau regarding BellSouth's 272 audit did not take issue with any of the metric results. Thus, a more accurate statement would be, not that AT&T has used this information to detect discrimination, but that AT&T has used the information in the past as the basis for specious claims of discrimination that were, at least implicitly, rejected by the Commission.

It is also important to note that BellSouth has proposed that the access service metrics be used for several purposes, including the monthly reporting of metric results, in a number of proceedings (see BellSouth's April 29, 2004 *ex parte* presentation, p. 2). There is a considerable difference between providing competitively sensitive volume information in the context of periodic audits, and providing it directly to BellSouth's competitors on a monthly basis. When BellSouth provided the data to the Commission as part of its 272 Audit Report, the information was already at least a year old. In contrast, AT&T is, in effect, seeking to obtain access to BellSouth's current competitively sensitive information on a routine monthly basis.

As stated above, BellSouth does not believe that there is any need for this volume information to be reported to the FCC or supplied to BellSouth's competitors on a regular, recurring basis. To the extent the Commission does wish to review the volume information, either in the context of future audits or on a recurring basis, however, BellSouth would provide this information to the Commission under confidential cover. BellSouth should not be required, however, to provide competitively sensitive information to AT&T or other competitors, and especially not current information.

2. AT&T's Contentions: 1) "The BOC Proposed Metrics Mask Discrimination by Aggregating The Section 272 Affiliate Data With Other Affiliate Data." (Letter, p. 4). 2) "BellSouth's proposed metrics provide for the aggregation of the Section 272 affiliate data with 'Other BOC Affiliate' data." (*Id.*).

BellSouth's Response: AT&T is mistaken. BellSouth informed the Commission Staff in the *ex parte* presentation of April 28, 2004 that results for BellSouth Long Distance would be reported separately from the results for other affiliates. (*Ex Parte* Presentation of April 28, 2004, p. 7). AT&T is obviously aware of this, since it specifically acknowledges in its June 7 letter that BellSouth made this representation. (Letter, footnote 12). AT&T, however, inexplicably contends that this representation is false, and cites to the proposed metrics attached to the *ex parte* presentation (pp. 2, 4-5, and 7-8). Each of the pages cited by AT&T, however, describes the disaggregation in a way that rebuts AT&T's allegation. For example, looking at the business rules for the proposed measurement FOCT2 (Firm Order Timeliness) (p. 2), the Report Structure Section describes the "BellSouth Aggregate" data as being reported in two separate categories, one for the "BellSouth 272 Affiliate," and a separate category for "BellSouth and other Affiliates Aggregate." Thus, AT&T's assertion that the BellSouth proposal does not include this disaggregation is inexplicable, and obviously wrong.

3. AT&T's Contention: "Verizon's Proposal Would Allow the BOCs Strategically To Self-Define The Applicable Metric And Then Self-Report on Unverifiable Results." (Letter, p. 4).

BellSouth's Response: Obviously, Verizon is best able to respond to the portion of AT&T's assertion that is directed specifically to the Verizon proposal. BellSouth would note, however, that AT&T has not claimed that there is any deficiency in BellSouth's approach to defining metrics. Further, BellSouth's plan would not allow the BOCs to self-define metrics.

Under the BellSouth proposal,[4] the Commission would define the basic structure of the required metrics, but the BOCs would have limited flexibility to accommodate operational differences. This basic structure would include the parameters for specific metrics to measure performance in ordering, installation, and maintenance. This structure would accommodate some operational differences, and RBOCs would be allowed to request a waiver when needed to accommodate additional operation issues. The structure, however, would be as consistent as possible from one BOC to the next. In addition, BellSouth proposes that the measurements set according to Commission-defined criteria would be used to meet the needs of a number of proceedings and across multiple Bureaus.

4. AT&T's Contention: "Verizon also proposes that each BOC self-report the metric results, that is, an auditor would not collect the underlying data, nor would that underlying data be reported." (Letter, p. 5).

BellSouth's Response: Again, Verizon is best able to respond to the specific assertion directed to it. BellSouth notes, however, that none of the proposals before the Commission, including the JCIG proposal supported by AT&T, would have auditors collect the raw data used to generate performance results prior to the reporting of performance.

Further, none of the many monthly UNE performance reports that BellSouth currently submits to state regulators impose this costly burden upon the ILEC. Both the Verizon and BellSouth proposals are entirely consistent with those state reporting programs established to determine compliance with Section 271 checklist obligations.

[4] BellSouth's proposal is detailed at greater length on p. 16 of the *Ex Parte* Presentation provided on June 9, 2004.

Also, in its June 9 *ex parte* presentation, BellSouth committed to retain performance raw data files for a period of 18 months so that, in the unlikely event that the Commission found a need to verify reported performance results, the raw data on which those results were based would be available.

Finally, BellSouth's data, as well as that of other BOCs, are closely scrutinized as part of the 272 biennial audits. For the purposes of these audits, the underlying data are used to essentially reconstruct the reported results. This process provides ample verification. There is no need to add to the process some sort of undefined auditor verification before reporting occurs (even if it were practical to do so, which is not the case).

5. AT&T's Contention: "Verizon proposes that any performance metrics be applied only to special, and not switched access, services . . .." (Letter, p. 5).

BellSouth's Response: AT&T's assertion is correct. AT&T fails to mention, however, that the plan it proposes for adoption by the Commission (the JCIG plan) also applies only to special access. In contrast, BellSouth's plan includes metrics that the JOT identified as key measures to ensure that the BOC does not discriminate between its 272 affiliate and non-affiliates in either the handling of PIC change requests or in its provision of switched access service.

6. AT&T's Contentions: (1) "BellSouth would eliminate the 'Average Installation Intervals' metric." (Letter, p. 6). (2) "BellSouth's and Verizon's Proposed Deletion of the 'Average Installation Intervals' Metric Would Undermine The Ability To Detect Discrimination In Provisioning Service" (Letter, p. 8).

BellSouth's Response: AT&T is correct that BellSouth proposes to eliminate the Average Installation Interval measurement. This interval should be eliminated because, due to the "customized" nature of special access services, this metric does little or nothing to detect discrimination. Average installation interval results are driven by the customer requested due date (CDDD). In other words, special access customers place orders with installation intervals that meet their specific needs. Sometimes the requested interval is longer than the standard intervals that are currently offered by BellSouth. Other times, the requested intervals are shorter than standard interval offerings, in which case the special access customer pays BellSouth for the shorter (expedited) interval in the form of a service date advancement charge. Requests for expedited intervals (from any customer) are evaluated on a case-by-case basis to determine whether BellSouth can meet the customer's requested due date, an analysis that is driven in large part by the date requested and the availability of facilities. Thus, because it depends on a special access customer's specific offerings (*e.g.,* the services ordered, how the customer wants that particular service configured) the service installation interval for different special access customers can vary. This variance, however, does not reflect discrimination, but simply the difference in services ordered and non-standard intervals requested.

BellSouth, of course, made this same point in the context of its 272 audit. AT&T acknowledges this in the letter in the form of a heavily edited quotation of BellSouth's previous explanation. AT&T's letter also includes the false allegation that this explanation was offered in the Audit "without any substantiation whatsoever." (Letter, p. 8). The portion of BellSouth's response that AT&T chose not to quote explained that "because each IXC customer operates under a different business plan, one IXC may 'buy down' the standard interval routinely while another may always ask for an interval longer than the standard." (Audit Report, Appendix A, at 44-45). Further, this explanation was <u>absolutely substantiated</u> by the results of the audit.

By way of alleging discriminatory treatment, AT&T notes that the average installation intervals were shorter during the audited time period in Georgia and Louisiana for BellSouth's 272 affiliate than for non-affiliated entities. AT&T simply assumes that this difference must be attributable to discrimination. Attachment A to the Audit Report depicts the length of the average intervals requested for DS0, DS1 and DS3 service. The data for Louisiana (Audit Report-Attachment A, p. 75) shows that for the months of June of 2002 through May of 2003, there are only five months in which BellSouth's 272 affiliate had any DS0-related requests. During three of these five months, the average interval requested by BellSouth's 272 affiliate was shorter than the average interval requested by non-affiliates. As to DS1 service, BellSouth's 272 affiliate had requests in eleven of the twelve months during this time period, and the BellSouth affiliate requested shorter intervals in nine of these eleven months. (*Id.*).

As for the installation interval metric in Georgia for this time period, the BellSouth affiliate had requests for DSO service in only four of the twelve months. In two of these four months, the requested intervals for the BellSouth affiliate were slightly higher. In the remaining two months, the requested intervals for non-affiliates were <u>much</u> higher. This means that, <u>on average</u>, the intervals requested by non-affiliates were higher. (Attachment A, p. 41). As to DS1 service, during this twelve-month time frame, the BellSouth 272 affiliate requested shorter intervals than non-affiliates in eleven of the twelve months. (*Id.*). For DS3 service, there was a similar pattern to that for DS1 service: of the nine months with BellSouth affiliate activity, the intervals requested by non-affiliates were slightly shorter in three months, substantially shorter in one month, and substantially longer in the remaining five months. (*Id.*).

Moreover, by comparing the "Average Intervals-Offered" in Georgia and Louisiana (Att. 1, pp. 43 and 77) with "Average Intervals-Requested" (Att. 1, pp. 41 and 75), one can see that the difference in the intervals provided to the BellSouth 272 affiliate and non-affiliates is driven almost completely by the differences in <u>requested</u> intervals described above. Thus, BellSouth's explanation is validated by the data contained in the Audit Report. AT&T's claim to the contrary is simply false.

7. <u>AT&T's Contention</u>: "BellSouth would eliminate the . . . 'Time to restore PIC after trouble incident' used in the SBC audits . . .." (Letter, p. 6).

BellSouth's Response: Since BellSouth's plan has never included a "Time to restore PIC after trouble incident measurement," AT&T's claim that BellSouth plans to "eliminate" this metric is not an accurate statement of BellSouth's proposal. Further, based on data contained in BellSouth's Audit Report, the JOT found no reason to impose on BellSouth additional metrics like the one AT&T advocates. Finally, trouble reports are measured on a product-by-product basis in other maintenance and repair metrics. Adding the measurement AT&T advocates would only result in unnecessary duplication.

8. AT&T's Contention: "The BellSouth and Qwest Articulation of the 'Firm Order Confirmation (FOC) Timeliness' Metric Would Mask Evidence Of Material Discrimination." (Letter, p. 6).

BellSouth's Response: AT&T begins its criticism of BellSouth's FOC measure by noting that BellSouth proposes to replace the current FOC Timeliness measure, which reports the data in terms of the time it takes the BOC to return the FOC to the originating carrier, with a metric that would report the percentage of FOCs returned within the standard interval. AT&T further alleges that "the proposed 'percentage/standard interval' metric is less able than the 'actual time' metric to identify unlawful discrimination . . .." (p. 6). AT&T neglects to mention, however, that the BellSouth proposed metric functions in the same way as the JCIG proposed measure SA-1 FOC, which also measures the percentage of FOCs that are timely returned rather than measuring the average length of the intervals.

AT&T has two additional criticisms of BellSouth's proposed measurement 1) that the "standard interval" is too long; and 2) that the standard interval will mask discrimination.

In response to AT&T's first contention, BellSouth notes that the length of the "standard interval" has nothing to do either with whether parity service is being provided, or with the standards by which parity is determined. The "standard interval" is simply the time frame in which service is typically rendered, in this case, the interval to receive an FOC. Regardless of the specific measurement in question, however, the parity standard requires only that BellSouth render service to nonaffiliated carriers that is in parity to what it provides to itself (or, in this case, its 272 or other affiliates). The standard interval applies equally to BellSouth's affiliate and to unaffiliated carriers, which means that it is structured to measure parity regardless of the length of the interval. In other words, if the standard interval for a particular service is longer, then this longer interval equally applies to BellSouth affiliates and to non-affiliated carriers. Likewise, a shorter interval would apply equally to BellSouth affiliates and to non-affiliates. Thus, since the standard interval by definition applies to all carriers, the length of the interval has nothing to do with whether parity service is being rendered, or, alternatively, whether discrimination exists.

Putting aside AT&T's rhetoric, its real goal has nothing to do with the measurement or the effectiveness of the measurement. Instead, AT&T is arguing for a costly and burdensome change to the BOCs' systems that would allow AT&T to have a shorter interval. In other words, AT&T is arguing for a significant re-design of the operational practices and systems of the BOCs. The purpose of these (or any) measurements that relate to a BOC's performance of its obligations under the Act is to measure the level of performance to ensure that there is no discrimination. The measurement plan is not intended as a vehicle to change the processes that offer non-discriminatory service to both BellSouth affiliates and non-affiliates. Nevertheless, this is precisely what AT&T advocates, and, of course, AT&T advocates also that these costly and burdensome changes be made at the expense of the RBOCs.

AT&T also alleges that the use of a standard interval masks discrimination. Specifically, AT&T contends that the five-day FOC interval BellSouth uses for its DS3 service would allow alleged discrimination that came to light during the 272 audit to go undetected in the future. AT&T claims that, although the five-day interval was met for both BellSouth affiliates and for non-affiliated entities, the interval BellSouth provided to its affiliates was one day (in Georgia) and one and a half days (in Florida), as opposed to three days for non-affiliated entities. (Letter, p. 6). This, AT&T contends, reflects discrimination that should be addressed by establishing shorter intervals.

AT&T's contention, however, is incorrect for a number of reasons. First, AT&T appears to take the position that any variation between the performance to BellSouth affiliates and non-affiliates necessarily reflects discrimination. To the contrary, the entire measurement system, and the statistical analysis that underlies it, has a principal goal of determining whether perceived differences in performance are significant or material. Beyond making an unsupported assumption, AT&T has provided nothing to show that the relatively small variances in FOC timeliness it identifies are significant.

Second, AT&T bases its allegation of discrimination on a sample of data so limited that it cannot support a valid conclusion about service quality, and certainly not the conclusion that discrimination has occurred.[5] Thus, even if we accept AT&T's premise that varying results for one service in two different states over the course of a year could be sufficient to demonstrate discrimination, AT&T has still based its argument on very limited data.

Third, AT&T conveniently ignores the fact that BellSouth has already provided an explanation for the difference in intervals. In its Audit Report, the difference in intervals

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[5] AT&T and other JCIG members have contended in a variety of contexts that low volume samples cannot be used for parity comparisons. BellSouth has noted in response that any concern can be addressed by combining data for more than one state or more than one month to obtain larger sample sizes. It is noteworthy that, in this case, AT&T bases its argument <u>exclusively</u> on a number of small samples, each of which includes the results for a single month in a single state.

is noted under Objection VIII, procedure 4. BellSouth responded by providing the following information:

> Analysis of this issue revealed that the non-affiliate data included ASRs that should have been Project Managed, however, were not because they did not have a project ID. An ASR must have a project ID in order to signify that it should be Project Managed. This resulted in these ASRs being incorrectly incorporated into the measure, which caused inflated non-affiliate measurement.
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> (Audit Report, p. 16).

Even if the comparison AT&T makes were otherwise meaningful, BellSouth's analysis of the difference in FOC performance revealed that this difference was attributable to non-affiliates improperly submitting ASRs.

9. AT&T's Contention: BellSouth's "proposed exclusions further dilute the metrics." (Letter, p. 7).

BellSouth's Response: AT&T makes a number of complaints about BellSouth's proposed exclusions, none of which are well founded. AT&T complains about the exclusion of projects, service requests cancelled by the originator, and unsolicited FOCs. AT&T also complains about BellSouth's proposal to address "timing issues."

Projects are properly excluded from the measurements because they relate, by definition, to orders that are out of the ordinary, and that require special handling. Consequently, these orders cannot appropriately be measured by metrics that are designed to address standard orders. Including projects as well as more typical orders would skew the results in a way that would mischaracterize performance of the standardized ordering process that is the appropriate focus of the measure.

As to AT&T's contentions regarding the exclusion of service requests cancelled by the originator and unsolicited FOCs, BellSouth's notes that AT&T is, once again, complaining about a feature of BellSouth's proposal that is mirrored in the JCIG proposal AT&T supports. Specifically, JCIG includes an exclusion for "cancelled ASRs" in the measure FOC Receipt (SA-1) that is essentially the same as the "cancelled by originator" exclusion in BellSouth's proposed measurement. Moreover, AT&T does not appear to understand BellSouth's proposed measurement. AT&T claims "cancellations should be excluded only if cancelled *prior* to the FOC date." (Letter, p. 7). The exclusion proposed by BellSouth is limited in exactly this way.

Both the JCIG measure and BellSouth's measure also have an exclusion for "unsolicited FOCs." It is difficult to understand why AT&T would complain about an exclusion that also appears in the proposal that it supports. Nevertheless, the unsolicited FOC exclusion is appropriate because an unsolicited FOC has no associated ASR. For this reason, there is simply no way to measure the interval for return of an FOC.

Nevertheless, AT&T complains about both of these exclusions by stating that they would allow a BOC to "strategically wait until after the FOC date to inform the non-affiliated carrier that it will not be provisioned in a timely manner, so that if the carrier then cancels the request because the due date is too far out, the untimely FOC will be disregarded and not included with the performance metric." (Letter, p. 7). Again, AT&T's professed concerns about these exclusions are difficult to understand, given the fact that JCIG has the same exclusions. Still AT&T's above-quoted allegation is noteworthy because it is one example of a ploy that AT&T relies upon repeatedly: conjuring up the imaginary specter of future RBOC misconduct.

AT&T has not alleged that there is a systemic possibility of accidental misreporting. Instead, AT&T has essentially concocted a fantasy in which some unidentified BOC at some point in the future might engage in intentional dishonest behavior for the purpose of misreporting performance. AT&T, of course, has not alleged that this conduct has ever occurred (and cannot truthfully make this allegation), nor does AT&T provide any basis to support its contention that this conduct would or could ever occur. Moreover, it is important to note that the JCIG plan contains these same exclusions, but no safeguards to protect against the "dishonest BOC" fabricated by AT&T. Given this, it is clear that AT&T has no basis to contend that this fantasy of RBOC misconduct could become a reality, and create a need for monitoring.

Finally, as to AT&T's contention about timing issues, AT&T is correct, *i.e.*, if service requests are not due in the month that they are received, these requests would not be captured by the metric BellSouth has proposed. However, there is no problem concerning orders <u>not</u> being worked, so the point that AT&T makes is theoretical at best. The response to special access ASRs is, for the most part, a self-policing, self-correcting activity. Further, no one has contended that BellSouth has <u>not</u> responded to ASRs that it has received. BellSouth's competitors would certainly be vocal in their protests if orders were not being processed. BellSouth is unaware of any competitors that have made this allegation. Finally, access services are high revenue services, which means that sufficient incentive already exists for an RBOC to complete and close all orders promptly so that it can begin to bill for the service.

Nonetheless, if the Commission is concerned about this theoretical occurrence, BellSouth would propose to amend its FOCT2 measure to include orders submitted at the end of a month with the FOC issued after the beginning of the following month by structuring the completeness calculation to include all service requests received during the reporting period.

10. AT&T's Contention: BellSouth's "'Percentage of Installation Appointments Met' metric will not measure the extent of discrimination where installation occurs after the committed due date." (Letter, p. 8).

BellSouth's Response: Essentially AT&T contends that, if an installation appointment is missed and BellSouth consequently fails the measure, there would be no indication under BellSouth's proposal of how badly BellSouth has failed to meet the interval. In other words, if the installation interval is three days, the BellSouth-proposed measurement would not show whether an untimely installation was actually performed in five days, ten days, or later. AT&T is correct in this regard. There is, however, absolutely no reason to provide this additional information.

The measurement is structured such that, if the installation does not occur by the due date, there is a failure to provide timely service, and this incident is counted against BellSouth in comparing the percentage of appointments met for both affiliates and for non-affiliates. If BellSouth fails to achieve parity in the indicated percentage of appointments met, it fails the measure. There is no real point to assessing the extent of any given failure, because all failures count against BellSouth in the measure.

Moreover, the measurement that AT&T advocates as an alternative would result in a conclusion regarding service timeliness that would, in many cases, be highly questionable. AT&T's proposed measure would take only those installations that are not timely, and determine how many of them occur within a certain number of days after the committed due date. Thus, for example, assume that one is reviewing 100 installations, under the standard that missing the committed due date by more than four days reflects a more severe failure than missing the due date by less than four days. If the committed due date was missed for 50 of the 100 installations, but all 50 of the misses were by less than one day, this would be judged to be sufficient performance under AT&T's proposed measure. Assume, on the other hand, that 99 of 100 installations were completed by the committed due date, but the single installation that is late occurs five days after the due date. Under AT&T's proposed measurement, the second example is considered a failure to provide timely installation. However, based on the example above, it would be difficult for one to argue reasonably that the first scenario (which would pass AT&T's proposed test) reflects better performance than the second.

11. AT&T's Contention: "BellSouth's Proposed 'New Installation Trouble Report Rate' Metric Is Virtually Meaningless." (Letter, p. 9).

BellSouth's Response: AT&T contends that BellSouth's new installation trouble report rate metric "is not only unnecessary in light of existing repair metrics, but, as currently proposed, is so emasculated as to be of little value in identifying actual discrimination." Thus, AT&T takes the contradictory approach of arguing both that the measurement is not needed and that it is too weak. At the same time, AT&T has argued for precisely the same measurement, but stated that subsequent repair work should be considered if it occurs within 30 days, rather than the five-day interval proposed by BellSouth. Thus, despite AT&T's rhetoric, it obviously sees the need for this metric. BellSouth has reviewed this metric and will agree to the thirty-day interval proposed by AT&T.

BellSouth also believes strongly that the exclusions it proposes are absolutely necessary. The exclusions with which AT&T takes issue are those 1) that limit the metric to the first trouble report, 2) that include only direct reports, 3) that include only reports that require physical repair, and 4) that exclude troubles outside of BellSouth's control.

Despite AT&T's contention to the contrary, the exclusion of subsequent reports is appropriate. This metric is intended to measure a BOC's performance on installation, not on the general performance of the network. Subsequent reports that denote network performance are captured in other metrics. Capturing subsequent reports in this metric as well would accomplish nothing more than unneeded redundancy.

It is also appropriate to include only <u>direct</u> trouble reports because these are the only reports of actual troubles that come from actual customers. The purpose of this exclusion is to take out of the measurement employee-initiated reports. A BellSouth employee, in the context of performing routine maintenance, may determine that there is a particular facility that requires preventative maintenance before the facility does impair the customer's service. If so, the usual procedure would be for that employee to submit a trouble report to ensure that needed work is subsequently performed. There is, of course, no requirement to do this, and this practice has nothing to do with providing parity in the handling of troubles that affect customers. Accordingly, it is appropriate to only include direct (*i.e.*, customer-initiated) trouble reports.

BellSouth's exclusion of all trouble reports that do not require physical repair work also makes perfect sense. This exclusion would function to exclude any instance in which a trouble is reported, and the line is tested, but no trouble is found. It would also exclude instances in which a dispatch occurs, but the technician that is dispatched finds no trouble. In other words, it would exclude reported troubles that are not actually troubles. The point of this measurement should be to measure the quality of installation by determining whether there are actual (not incorrectly reported) troubles.

Finally, AT&T criticizes the exclusion of "troubles outside of BellSouth's control" because, AT&T argues, this exclusion is too subjective. In point of fact, it would be hard to imagine an exclusion that is less subjective. This exclusion applies only in the case of events such as damage to facilities (cable cuts) or natural disasters. In other words, the exclusion covers major events that are obviously not attributable to BellSouth in any way. It is safe to say that not even AT&T would blame BellSouth if, for example, a flood has a negative impact on installation performance. There is simply no basis for AT&T to argue that this exclusion is subjective in any way.

12. AT&T's Contention: BellSouth has proposed to weaken the "average PIC change interval" by having the interval start when the PIC request is received rather than when it is sent. (Letter, p. 10).

BellSouth's Response: AT&T's contention that BellSouth is changing this metric to "have the interval start, not when placed by the carrier, as currently required, but only when received by the BOC" (p. 10) is incorrect. The interval reviewed in BellSouth's 272 Audit starts when the date/time stamp indicates that a PIC-related order has been received. BellSouth's proposed change in the wording in this metric is only to clarify the actual method used in the audited measure. As AT&T is undoubtedly aware, BellSouth has no way to know when the request is placed by the carrier. The only way that the interval could be measured from the time the request is placed would be if the BOC relies completely upon the representation of the carrier that sends the request. In contrast, BellSouth does know when the PIC change request is received, and this determination can be made in most cases in a way that is very precise, and that is not susceptible to control by the ILEC.[6]

AT&T contends that BellSouth's proposed change would give each BOC "greater control over when it deems the request to have been 'received.'" (p. 10). AT&T again has no factual basis to support its allegation. The vast majority of requests for PIC changes are mechanized. The calculation of the metric is driven by the automatic generation of time and date stamps when dealing with requests submitted electronically. The RBOC does not control the date and time at which the automatic time stamp indicates the request was received. Finally, BellSouth notes that this measure was reviewed in BellSouth's initial 272 Audit, and neither the Auditor nor the Commission identified any problem with BellSouth's approach.

13. AT&T's Contention: "The BOC Proposals Would Further Dilute The Repair Metrics." (Letter, p. 11).

BellSouth's Response: Once again, AT&T complains about the exclusion of trouble reports that are not customer initiated (*i.e.*, direct trouble reports), reports that do not require an actual repair by BellSouth, and reports of troubles that are beyond BellSouth's control. AT&T also complains about BellSouth's proposed exclusion of "customer caused troubles."

As to customer-caused troubles, AT&T has provided no substantive reason that troubles of this sort should not be excluded, but, instead, makes only the vague claim that this exclusion allows the BOC too much discretion. (*Id.*). It seems fairly obvious

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6 BellSouth would also note that AT&T's feigned concern about "control" by the RBOC is one more example of an attempt to justify AT&T's position on the basis of nothing more than speculation about future bad acts on the part of an RBOC. As discussed previously, this is not a valid basis for imposing burdensome conditions as part of a measurement plan.

that a trouble caused by a customer is, by definition, not a trouble caused by BellSouth, and BellSouth should not be held accountable for such a trouble.

For each of these four exclusions, AT&T's only stated objection is that they "vest enormous discretion in the BOC as to the classification of outages, allowing the BOC to manipulate the ultimate data collected by the auditor." (p. 12). Once again, AT&T, having failed to come up with any legitimate basis to oppose this portion of BellSouth's proposal, simply takes the low road and resorts to the groundless assertion that the RBOCs will engage in dishonest behavior whenever given the chance to do so. Although this is a common tactic by AT&T, these spurious claims do not become any more valid through frequent repetition, and they should be rejected.

Again, AT&T appears to take the approach that the best set of metrics is one that is the most overbroad and burdensome, and that would impose standards that are the most difficult to meet, regardless of whether these metrics truly advance Commission goals. BellSouth, in contrast, believes that if the Commission determines that metrics are appropriate, it is important to have measurements that are adequate to ensure parity performance, but are no more burdensome or costly than absolutely necessary. BellSouth has proposed a streamlined, harmonized set of metrics that it believes accomplishes this goal, and that it requests the Commission to adopt for use in all areas in which switched and special access measures are deemed necessary.

Respectfully submitted,

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